

### **13-37-102 Definitions.**

As used in this chapter:

- (1) "Affiliate" means a person that controls, is controlled by, or is under common control with:
  - (a) a commercial entity; and
  - (b)
    - (i) directly; or
    - (ii) indirectly through one or more intermediaries.
- (2)
  - (a) Subject to Subsection (2)(b), "commercial entity" means a person that:
    - (i) has an office or other place of business located in the state; and
    - (ii) in the ordinary course of business transacts a consumer transaction in this state.
  - (b) "Commercial entity" does not include:
    - (i) a governmental entity; or
    - (ii) an entity providing services on behalf of a governmental entity.
- (3) "Compensation" means anything of economic value that is paid or transferred to a commercial entity for or in direct consideration of the disclosure of nonpublic personal information.
- (4)
  - (a) "Consumer transaction" means:
    - (i) a sale, lease, assignment, award by chance, or other written or oral transfer or disposition:
      - (A) that is initiated or completed in this state; and
      - (B) of:
        - (I) goods;
        - (II) services; or
        - (III) other tangible or intangible property, except securities and insurance or services related thereto; or
    - (ii) a transaction:
      - (A) that is initiated or completed in this state; and
      - (B) that constitutes credit offered or extended by a commercial entity to a person primarily for personal, family, or household purposes.
  - (b) "Consumer transaction" includes:
    - (i) the use of nonpublic personal information in relation to a transaction with a person if the transaction is for primarily personal, family, or household purposes; and
    - (ii) with respect to any transaction described in Subsection (4)(a):
      - (A) an offer or solicitation;
      - (B) an agreement;
      - (C) the performance of an agreement; or
      - (D) a charitable solicitation as defined in Section 13-11-3.
  - (c) "Consumer transaction" does not include a transaction related to real property.
- (5)
  - (a) "Nonpublic personal information" means information that:
    - (i) is not public information; and
    - (ii) either alone or in conjunction with public information, identifies a person in distinction from other persons.
  - (b) "Nonpublic personal information" includes:
    - (i) a person's Social Security number;
    - (ii) information used to determine a person's credit worthiness including a person's:
      - (A) income; or
      - (B) employment history;

- (iii) the purchasing patterns of a person; or
  - (iv) the personal preferences of a person.
- (6) "Public information" means a person's:
  - (a) name;
  - (b) telephone number; or
  - (c) street address.
- (7)
  - (a) Subject to Subsection (7)(b), "third party" means a person other than the commercial entity that obtains nonpublic personal information.
  - (b) "Third party" does not include an affiliate or agent of the commercial entity that obtains nonpublic personal information.

Enacted by Chapter 97, 2003 General Session